



PATENT APPLICATION

PATENT AND TRADEMARK OFFICE

BEFORE THE HONORABLE BOARD OF PATENT APPEALS AND INTERFERENCES

In re the Application of

Masahiko NAKANO

On Appeal from Group: 3661

Application No.: 10/619,034

Examiner: M. ZANELLI

Filed: July 15, 2003

Docket No.: 116604

For: NAVIGATION APPARATUS

APPEAL BRIEF TRANSMITTAL

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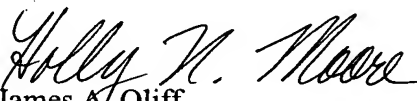
Sir:

Attached hereto is our Brief on Appeal in the above-identified application.

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For the convenience of the Finance Division, two additional copies of this transmittal letter are attached.

Respectfully submitted,


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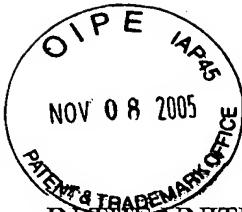
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BRIEF ON APPEAL

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Appeal from Group 3661

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I. REAL PARTY IN INTEREST

The real party in interest for this appeal and the present application is Fujitsu Ten Limited, by way of an Assignment recorded in the U.S. Patent and Trademark Office at Reel 014284, Frame 0312.

II. STATEMENT OF RELATED APPEALS AND INTERFERENCES

There are no prior or pending appeals, interferences or judicial proceedings, known to Appellant, Appellant's representative, or the Assignee, that may be related to, or which will directly affect or be directly affected by or have a bearing upon the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-14 are pending.

Claims 1-14 are on appeal.

Claims 1-14 are rejected.

IV. STATUS OF AMENDMENTS

No Amendment After Final Rejection has been filed.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Claim 1 is directed to a navigation apparatus for displaying information required to reach a destination on a display screen to guide a vehicle to the destination. The navigation apparatus comprises a first display control unit for displaying at least a part of a route to the destination on the display screen and displaying each of main points on the route as a mark on the display screen, and a second display control unit for determining whether or not a user selects one of the main points and displaying a real image showing a surrounding of a selected main point on the display screen on a basis of position information of the selected main point and real image data corresponding to position coordinates, when the second

display control unit determines that the user selects one of the main points. The real image includes at least one of an aerial photograph and a satellite photograph.

As shown in Figs. 2-4, for example, a navigation apparatus may include a display control unit 1 for displaying, in step S4, at least a part of a route to a destination on a display screen 9b and displaying, in step S5, each of main points S, G1-G3, IC on the route as a mark on the display screen 9b. See page 11, lines 1-3, page 13, lines 2-5 and line 22-25, page 14, lines 5-10, and page 16, lines 12-16. The display control unit 1 may also determine, in step S9, whether or not a user selects one of the main points. See page 14, lines 20-22. As shown in Fig. 5, when the display control unit 1 determines that the user selects one of the mainpoints, the navigation apparatus may then display, in steps S12, S13, a real image showing a surrounding of a selected main point on the display screen 9b on a basis of position information of the selected main point (step S10) and real image data corresponding to position coordinates (step S12). See page 14, line 22 - page 15, line 6. The real image may include at least one of an aerial photograph and a satellite photograph. See page 16, lines 16-20.

Claim 2 is directed to a navigation apparatus for displaying information required to reach a destination on a display screen to guide a vehicle to the destination. The navigation apparatus comprises a display control unit for determining whether or not a user gives a command to display a real image on the display screen, and displaying the real image showing a surrounding of a main point on a route to the destination on the display screen on a basis of real image data corresponding to the real image. The real image includes at least one of an aerial photograph and a satellite photograph.

As shown in Figs. 1-9, for example, a navigation apparatus may include a display control unit 1, 1A for determining whether or not a user gives a command to display a real image on the display screen (step S9 of Fig. 2. and step S27 of Fig. 6). See page 14, lines 20-

22, and page 18, lines 14-15. If the command is given, the navigation apparatus may then display the real image showing a surrounding of a main point on a route to the destination on the display screen on a basis of real image data corresponding to the real image (See Fig. 5, steps S12, S13 of Fig. 2, steps S30, S31 of Fig. 6, and Fig. 9). See page 14, line 22 - page 15, line 6, and page 18, line 15 - page 19, line 7. The real image includes at least one of an aerial photograph and a satellite photograph. See page 16, lines 16-20.

Claim 3 is directed to a navigation apparatus for displaying information required to reach a destination on a display screen to guide a vehicle to the destination. The navigation apparatus comprises a first selection unit for selecting a point, a real image of which is to be displayed on the display screen, from among main points on a route to the destination on a basis of a movement state of the vehicle. The real image includes at least one of an aerial photograph and a satellite photograph. The navigation apparatus also comprises a display control unit for displaying the real image showing a surrounding of the point selected by the first selection unit on a basis of real image data corresponding to the real image.

As shown in Figs. 6-12, a navigation apparatus may include a display control unit 1A, 1B for selecting a point, a real image of which is to be displayed on the display screen, from among main points on a route to the destination on a basis of a current vehicle position information and guide route information of the vehicle (step 28 of Fig. 8, step 58 of Fig. 12, and steps 41-43 of Fig. 11). For example, when the vehicle approaches the point, the apparatus may automatically cause an image of the point to be displayed. See page 18, line 16 - page 19, line 7, page 20, line 24 - page 21, line 4, page 22, lines 6-19, and page 23, line 22 - page 24, line 7. The real image includes at least one of an aerial photograph and a satellite photograph. See page 16, lines 16-20. The display control unit 1A, 1B may also display the real image showing a surrounding of the point selected by the display control unit 1A, 1B on a basis of real image data corresponding to the real image (See Fig. 5, steps S12,

S13 of Fig. 2, Fig. 9, and step S61 of Fig. 12). See page 14, line 22 - page 15, line 6, and page 24, lines 11-17.

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The following grounds of rejection are presented for review:

- 1) Claims 1-3 and 7-14 are rejected as obvious under 35 U.S.C. §103(a) over U.S. Patent Publication No. 2002/0177944 to Ihara et al. (Ihara) in view of U.S. Patent No. 5,396,431 to Shimizu et al. (Shimizu); and
- 2) Claims 4-6 are rejected as obvious under 35 U.S.C. §103(a) over Ihara and Shimizu, and further in view of U.S. Patent No. 6,199,014 to Walker et al. (Walker) and U.S. Patent No. 6,182,010 to Berstis.

VII. ARGUMENT

The Examiner rejects pending claims 1-3 and 7-14 under 35 U.S.C. §103(a) over the combination of Ihara and Shimizu, and rejects pending claims 4-6 under 35 U.S.C. §103(a) over the combination of Ihara, Shimizu, Walker and Berstis. However, proper application of the law demonstrates that no prima facie case of obviousness has been established and that the subject matter of claims 1-14 would not have been obvious over the applied references. As discussed below, the Examiner has consistently failed to respond to points raised by Appellant in this regard.

**A. Independent Claims 1-2 Would Not Have Been Obvious
In View Of The Applied Prior Art**

The Examiner recognizes that Ihara does not disclose an aerial or satellite photograph in the claimed context, but asserts that Shimizu overcomes this deficiency. As will be explained below, the rejection is in error because (1) an aerial or satellite photograph would not have been recognized as advantageous in the context of the Ihara apparatus, (2) there is no evidence that Ihara suggests that "a surrounding" of a main point should be shown, (3) if the

prior art were combined in the manner proposed, the result would be different from what is claimed, and (4) the alleged motivation for the proposed combination is insufficient.

1. In The Specific Example Described By Ihara, An Aerial or Satellite Photograph Would Not Have Been Recognized As An Advantage

The only specific example given by Ihara of a main point, associated with information that may be displayed, is a restaurant. As noted by the Examiner, the information that may be displayed includes a photograph. However, it is believed that this implies a frontal view of the restaurant, as it would be seen from the street, so that the driver/navigator can easily recognize the restaurant upon arrival. There is no suggestion or recognition by Ihara that an aerial or satellite photograph would be advantageous in the context of showing a picture of a restaurant. Hence, the Examiner's apparent allegation, that the general knowledge that satellite or aerial photographs can be used in some navigation systems would, by itself, have made it obvious to use such photographs in the context of "photograph" disclosed by Ihara, is without merit.

2. No Evidence Suggests that "A Surrounding" Of a Main Point Would Be Shown By the Ihara System

As discussed above, it is believed that the "photograph" mentioned by Ihara implies a frontal view of the restaurant, as it would be seen from the street. There simply is no explicit or implicit teaching or suggestion that "a surrounding" of the restaurant should also be shown. There is no suggestion or recognition by Ihara that showing a surrounding of the restaurant is advantageous in the context of showing a photograph of a restaurant.

3. Even If Combined, the Resulting Combination Would Differ From What Is Claimed

Shimizu teaches that actual conditions around a current position of a vehicle cannot be easily recognized to fulfill the basic functions of the navigation system if there are narrow roads that are not shown in a map image, or if the vehicle is located in a place where large

buildings disturb a view of the user. See col. 1, lines 39-45. Therefore, Shimizu teaches a navigation system that will allow the user to easily recognize conditions around a current position of the vehicle. See col. 1, lines 56-58.

Shimizu teaches that the navigation system may include a display controlling device coupled to a position measuring device and a storing device. Shimizu also teaches a displaying device that displays a mark based on a measured current position of a movable body and a stored aerial photograph data. See col. 1, line 59 - col. 2, line 2. Conditions around the current position of the movable body may include a group of buildings, agriculture fields, orchid fields, etc., and may be displayed in the aerial photograph image in addition to the mark indicating the current position on the display device. See col. 2, lines 3-7. As a result, Shimizu teaches that a current position of the movable body can be easily recognized by comparing conditions shown on the aerial photograph image with actual objects around the movable body. See col. 2, lines 7-12. Therefore, Shimizu merely teaches displaying a mark, indicating a current position of the movable body, on an aerial photograph image. The indicated current position is not a user-selected main point located on a route.

Shimizu also teaches that a display 17 may be selectively switched to display a current position of a movable body on an aerial photograph image or a map image based on the desires of a user. See Fig. 6A-6B and col. 6, lines 21-50. Therefore, Shimizu teaches that the background image on which a route or current position of a movable body may be displayed or may be an aerial photograph image or a map image. Thus, like Ihara, Shimizu merely teaches changing a background on which route information is to be displayed. Shimizu, like Ihara, does not teach or suggest displaying an aerial photograph based on position information of a user-selected point.

Because neither Ihara nor Shimizu teach or suggest displaying an aerial photograph based on a selected point provided on a route, Ihara and Shimizu would not have resulted in

the claimed combination of features, even if combined. Rather, the combination would, if anything, maybe have resulted in the Map M of Ihara being replaced by an aerial or satellite photograph, but not in the photograph disclosed in Ihara being replaced by an aerial or satellite photograph.

4. Alleged Motivation to Combine Is Insufficient, At Least Because Disclosure of Feature In Secondary Reference Is In a Different Context From What Is Claimed

Shimizu's disclosure of an aerial or satellite photograph is in a different context from what Appellant discloses and claims. As discussed above, the Shimizu photograph is simply used as a map upon which the current location of a vehicle is displayed. This disclosure of an aerial or satellite photograph is no closer to the claimed invention than prior art discussed in Applicant's specification e.g, at page 2, lines 5-16.

The disclosure of an aerial or satellite photograph in a context different from what is claimed, and no different from the prior art upon which Applicant improved, is the only basis for the Examiner's allegation of a motivation to combine references. This is not sufficient. Because there is no disclosure in the applied prior art of an aerial or satellite photograph in the context claimed, and because there is no recognition in the prior art of any advantage to be gained by an aerial or satellite photograph in the context claimed, it is evident that the Examiner has impermissibly relied on hindsight knowledge gained from Applicant's disclosure.

B. Independent Claim 3 Would Not Have Been Obvious In View Of The Applied Prior Art, For The Additional Reason That the Applied Prior Art Does Not Teach Or Suggest Selection Of a Point Based on "A Movement State Of the Vehicle"

Claim 3, like claims 1-2, recites that an aerial or satellite photograph showing a surrounding of a main point is displayed. For all the reasons discussed above in connection with claims 1-2, this feature would not have been obvious.

Additionally, claim 3 recites that the point for which the real image is to be displayed is selected on a basis of a movement state of the vehicle. The Examiner asserted on page 4 of the October 12, 2004 Office Action that this feature is disclosed at paragraphs [0044] - [0046] of Ihara. This simply is not correct. While these passages discuss measurement of a vehicle's location, it is clear in context that this measurement is used for showing the vehicle's position on the map, and not as a basis for displaying a photograph of a surrounding of a point (e.g., when the vehicle approaches that point).

C. Dependent claims 4-17 Are Allowable At Least For Dependence On Allowable Base Claims

None of the applied secondary prior art references overcomes the above-noted deficiencies of Ihara and Shimizu. Accordingly, the dependent claims are allowable at least for their dependence on allowable base claims.

VIII. CONCLUSION

For all of the reasons discussed above, it is respectfully submitted that the rejections are in error and that claims 1-14 are allowable. For all of the above reasons, Appellants respectfully request this Honorable Board to reverse the rejections of claims 1-14.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "James A. Oliff".

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APPENDIX A - CLAIMS APPENDIX

CLAIMS INVOLVED IN THE APPEAL:

1. A navigation apparatus for displaying information required to reach a destination on a display screen to guide a vehicle to the destination, the navigation apparatus comprising:

a first display control unit for displaying at least a part of a route to the destination on the display screen and displaying each of main points on the route as a mark on the display screen; and

a second display control unit for determining whether or not a user selects one of the main points and displaying a real image showing a surrounding of a selected main point on the display screen on a basis of position information of the selected main point and real image data corresponding to position coordinates, when the second display control unit determines that the user selects one of the mainpoints, wherein the real image includes at least one of an aerial photograph and a satellite photograph.

2. A navigation apparatus for displaying information required to reach a destination on a display screen to guide a vehicle to the destination, the navigation apparatus comprising:

a display control unit for determining whether or not a user gives a command to display a real image on the display screen, and displaying the real image showing a surrounding of a main point on a route to the destination on the display screen on a basis of real image data corresponding to the real image, wherein the real image includes at least one of an aerial photograph and a satellite photograph.

3. A navigation apparatus for displaying information required to reach a destination on a display screen to guide a vehicle to the destination, the navigation apparatus comprising:

a first selection unit for selecting a point, a real image of which is to be displayed on the display screen, from among main points on a route to the destination on a basis of a movement state of the vehicle, wherein the real image includes at least one of an aerial photograph and a satellite photograph; and

a display control unit for displaying the real image showing a surrounding of the point selected by the first selection unit on a basis of real image data corresponding to the real image.

4. The navigation apparatus according to claim 3, wherein the movement state of the vehicle is position information of the vehicle, position information of the main points, and positional relation between a position of the vehicle and that of each main point.

5. The navigation apparatus according to claim 4, wherein the first selection unit selects a point at which the vehicle next arrives from among the main points as the point, a real image of which is to be displayed on the display screen, on the basis of the positional relation.

6. The navigation apparatus according to claim 4, wherein the first selection unit selects a point which is closest to the vehicle from among the main points as the point, a real image of which is to be displayed on the display screen, on the basis of the positional relation.

7. The navigation apparatus according to claim 1, further comprising a third display control unit for displaying a button on the display screen when the real image is displayed, wherein when the user presses the button, the third display control unit switches the real image displayed to a map image.

8. The navigation apparatus according to claim 2, further comprising a second display control unit for displaying a button on the display screen when the real image is displayed, wherein when the user presses the button, the second display control unit switches the real image displayed to a map image.

9. The navigation apparatus according to claim 3, further comprising a second display control unit for displaying a button on the display screen when the real image is displayed, wherein when the user presses the button, the second display control unit switches the real image displayed to a map image.

10. The navigation apparatus according to claim 2, wherein when the display control unit determines that the user gives the command to display the real image on the display screen, the real image is displayed.

11. The navigation apparatus according to claim 3, wherein the display control unit determines whether or not a user gives a command to display the real image on the display screen, and

when the display control unit determines that the user gives the command to display the real image on the display screen, the first selection unit begins selecting the point, the real image of which is to be displayed on the display screen, from among the main points on the route to the destination.

12. The navigation apparatus according to claim 1, wherein each of the main points are created prior to a display of the route.

13. The navigation apparatus according to claim 2, wherein each of the main points are created prior to a display of the route.

14. The navigation apparatus according to claim 3, wherein each of the main points are created prior to a display of the route, and the first selection unit selecting the point in response to user input designating a switch from a map screen display to a real image display.

APPENDIX B - EVIDENCE APPENDIX

NONE

APPENDIX C - RELATED PROCEEDINGS APPENDIX

NONE